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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/778,000	02/10/2004	Daniel Wood	15730.2600	3338

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EXAMINER

BOYER, CHARLES I

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/778,000

Applicant(s)

WOOD ET AL.

Examiner

Charles I. Boyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

This action is responsive to applicants' amendment and response received June 20, 2006. Claims 1-14 and 16-26 are currently pending.

Specification

The amendment filed June 20, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "wherein the composition does not comprise any components whose primary function is as a suds reducer" is new matter. There is no explicit language in the specification for this negative limitation.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 4, 14, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2, 4, 14, and 17 are confusing because the variables x and y in the formulae are not defined.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Initially, the examiner notes that all of the components presently claimed are extremely common ingredients for use in detergent compositions and so a thorough search is impossible. Note that claim 14 requires only two components, an anionic and nonionic surfactant, present in literally thousands of detergent compositions. Any response from applicants to the references cited below that does not also address the fact that their claims are extremely broadly written, together with a clear statement of what applicants consider to be the novelty of their invention, will likely not be successful in rendering these claims allowable.

All prior art rejections under 35 U.S.C. 102 set forth in the previous office action, paper # 1/26/06 are withdrawn in view of applicants' amendment and response.

Claims 14 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams et al, US 6,194,370.

Williams et al teach a liquid laundry detergent comprising 2% alkyl benzene sulfonate, 9% alkyl phenol ethoxylate, NaOH, perfume, and the balance water (col. 14,

example 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Claims 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Masotti et al, US 6,087,312.

Masotti et al teach liquid laundry detergents comprising 1.7% alkyl sulfate, 3.1% of a mixture of ethoxylated alcohols, and the balance water (col. 22, example 4). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14 and 16-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smadi et al, US 6,376,446.

Smadi et al teach liquid detergent compositions comprising alkylbenzene sulfonate, a mixture of ethoxylated alcohol nonionic surfactants, 1% EDTA, 1% polyacrylate, 2.5% polyethylene glycol, 0.3% citric acid, anti-redeposition agent, optical brightener, triethanolamine, dye, fragrance, preservative, and the balance water (col. 11, example 1). The mixture of anionic and nonionic surfactants may be present in amounts as low

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as about 5% (col. 16, claim 1) and suitable nonionic surfactants of the invention include ethoxylated/propoxylated alcohols (col. 7, lines 66-67). Note that in example 1, the ratio of anionic surfactant to nonionic surfactant is 1:3. Further note that sodium hydroxide is taught as a preferred additive of the invention (col. 13, example 5). First, as the word about permits some tolerance (see *In re Ayers*, 69 USPQ 109 (CCPA 1946), and *In re Erickson*, 145 USPQ 207 (CCPA 1965)), the “about 5%” of surfactant taught by the reference may be considered to read on the about 4% presently claimed. Alternatively, if the range of prior art and the claimed range do not overlap, obviousness may still exist if the ranges are close enough that one would not expect a difference in properties (see *In re Woodruff*, 16 USPQ 2d 1934 (Fed. Cir. 1990); *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985); *In re Aller*, 105 USPQ 233, 255 (CCPA 1955)). Though the presently claimed ratio of surfactants in the presently claimed proportions is not taught by the reference, as the reference allows for lower amounts of surfactants, the examiner maintains that if lower amounts of surfactant were used, one of ordinary skill would likely maintain the ratio of surfactants set forth in example 1 and so this claim limitation would be satisfied.

Claims 1-14 and 16-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cao et al, US 6,025,316.

Cao et al teach liquid detergent compositions comprising 8.5% alkyl ether sulfate, 3.5% ethoxylated alcohol, 5% citric acid, 0.45% phosphonic acid chelant, 0.7% polyethylene glycol polymer, potassium hydroxide, perfume, and the balance water (col. 10, example

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C). The mixture of anionic and nonionic surfactants may be present in amounts as low as about 5% (col. 12, claim 1). Note that ethoxylated/propoxylated alcohols are preferred nonionic surfactants of the invention (col. 4, lines 56-58). Suitable additives of the invention include optical brighteners (col. 8, line 33). First, as mixtures of anionic and nonionic surfactants are preferred in the invention (see again, example 1), the examiner maintains that if about 1% nonionic surfactant is used, the amount of anionic surfactant in the "about 5%" surfactant of claim 1 will fall within the "about 4%" anionic surfactant presently claimed. Furthermore, as the word about permits some tolerance (see *In re Ayers*, 69 USPQ 109 (CCPA 1946), and *In re Erickson*, 145 USPQ 207 (CCPA 1965)), the "about 5%" of surfactant taught by the reference may be considered to read on the about 4% presently claimed. Alternatively, if the range of prior art and the claimed range do not overlap, obviousness may still exist if the ranges are close enough that one would not expect a difference in properties (see *In re Woodruff*, 16 USPQ 2d 1934 (Fed. Cir. 1990); *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985); *In re Aller*, 105 USPQ 233, 255 (CCPA 1955)).

Claims 1-3, 5-14, 16, and 18-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bacon et al, US 5,500,154.

Bacon et al teach liquid detergent compositions comprising 23% alkyl ether sulfate, 6% ethoxylated alcohol, 9% fatty acid amide nonionic surfactant, 6% citric acid, 0.95% phosphonic acid chelant, 0.46% soil release polymer, optical brightener, perfume, and the balance water (col. 29, example V-A). Another example comprises

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18% alkyl ether sulfate, 2% ethoxylated alcohol, 5% fatty acid amide nonionic surfactant, 3% citric acid, sodium hydroxide, polyacrylate, and the balance water (col. 27, example II). Note that anionic surfactants of the invention may be present in an amount as low as 1% (col. 31, claim 17). Accordingly, it would have been obvious to one of ordinary skill in the art to formulate a composition containing 1% anionic surfactant and so render obvious the claims at hand.

Claims 1-3, 5-10, 12-14, 16, 18-23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayer et al, DE 10215602, priority document of US 2005/0119151.

Mayer et al teach a liquid laundry detergent comprising 5% alkyl ether sulfate, 12% ethoxylated alcohol nonionic surfactant, 4% sodium citrate, 1.5% sodium hydroxide, 0.03 phosphonic acid sequestrant, 0.4% polyvinylpyrrolidone, perfume, and the balance water (page 19, example E3). Suitable additives of the invention include UV absorbers, i.e. optical brighteners (page 17, paragraphs 243-245). Note that anionic surfactants of the invention may be present in an amount below 5% and below 1% (page 21, claims 41 and 42). Accordingly, it would have been obvious to one of ordinary skill in the art to formulate a composition containing 1% anionic surfactant and so render obvious the claims at hand.

Claims 1, 2, 5-10, 12-14, 18-23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al, US 6,194,370.

Williams et al are relied upon as set forth above. Suitable additives of the invention include low levels of polymeric builders and phosphonate chelants (col. 10, lines 18-33), as well as thickening, soil suspending and soil release polymers (col. 15, line 60-col. 16, line 67). First, polymers, builders, and chelants are among the most common detergent additives known. In light of this fact and the teachings of the reference, it would have been obvious to one of ordinary skill in the art to include a polymer, builder, and chelant in example 1 of the reference and so render obvious the claims at hand.

Claims 14, 16-19, 21, and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masotti et al, US 6,087,312.

Masotti et al are relied upon as set forth above. Preferred nonionic surfactants of the invention include ethoxylated/propoxylated alcohols (col. 8, lines 61-67). Suitable additives of the invention include phosphonate chelants (col. 14, lines 8-46), as well as soil suspending polymers (col. 16, lines 43-46) and optical brighteners (col. 20, lines 26-42). First, polymers and chelants are among the most common detergent additives known. In light of this fact and the teachings of the reference, it would have been obvious to one of ordinary skill in the art to include a polymer and chelant in example 4 of the reference and so render obvious the claims at hand.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles I. Boyer whose telephone number is 571 272 1311. The examiner can normally be reached on M-Th 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571 272 1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Charles I Boyer
Primary Examiner
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